IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 8TH JANUARY 2008 / 18TH POUSHA 1929

OP.No. 21725 of 2001(J)

PETITIONER:

ULAHANNAN JOHN, S/O. ULAHANNAN,
KOOTUMALA PUTHEN PURAYIL HOUSE,
KOTHAIKUNNU, THODUPUZHA.

BY ADV. SRI.K.K.CHANDRAN PILLAI
SRI.K.S.DILIP

RESPONDENTS:
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1. THE TAHSILDAR, THODUPUZHA.

2. THODUPUZHA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
THODUPUZHA.

3. THE VILLAGE OFFICER, THODUPUZHA.

4. THE REVENUE INSPECTOR, THODUPUZHA.

BY ADV. SRI.P.K.SOYUZ
SHRI.K.P.PRADEEP, GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 08/01/2008, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO. 21725/2001

ORDER ON CMP NO. 35325/2001 IN O.P.NO. 21725/2001

DISMISSED.

08/01/2008 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF ASSESSMENT ORDER NO. A3-15142/96.

P1(a) : COPY OF DEMAND NOTICE DATED 17/03/97.

P2 : COPY OF CHALLAN DATED 24/04/97.

P2(a) : COPY OF CHALLAN DATED 25/07/97.

P3 : COPY OF ORDER NO.10110/99.

P3(a) : COPY OF DEMAND NOTICE DATED 20/09/99.

P4 : COPY OF CHALLAN DATED 16/11/99.

P4(a) : COPY OF CHALLAN DATED 17/02/2000.

P4(b) : COPY OF CHALLAN DATED 29/05/2000.

P4(c) : COPY OF CHALLAN DATED 16/08/2000.

P5 : COPY OF NOTICE DATED 15/02/2001.

P6 : COPY OF REPLY SUBMITTED BY PETIITONER DATED 20/02/2001.

P7 : COPY OF ASSESSEMNT ORDER DATED 26/02/2001.

P8 : COPY OF ASSESSMENT ORDER DATED 29/05/2001.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 21725 of 2001

Dated, this the 8th day of January, 2008

J U D G M E N T

Petitioner is challenging Ext.P8 notice demanding differential building tax of Rs.12,000/- for a three storied building constructed by petitioner. Learned counsel for petitioner submitted that ground floor was completed in 1997 and building tax was also paid. Thereafter, petitioner constructed first floor and second floor for the building, which was separately assessed vide Ext.P3 in 1999. Even though petitioner paid balance tax of Rs.4,500/-, Tahsildar thereafter revised all the two assessments by making combined assessment after issuing Ext.P5 notice. According to learned Government Pleader, assessment is made under Section 5(4) of the Building Tax Act, which provides for fresh assessment as and when plinth area is added to the existing building through additional construction. Petitioner's case is that the subsequent construction is not in addition to the ground floor but constructed as separate building. However, it is not stated that the additional construction is a separate floor or apartment justifying separate assessment. It is seen from the assessment order already issued that the building is assessed under the category 'other building', which obviously

means that the building is not a residential apartment. Since the construction of building was completed in the course of time and the building does not consist of different apartments or units but constitutes one single building, single assessment of the entire plinth area after completion of construction of building by revising earlier orders is permissible under Section 5(4) of the Building Tax Act read with Section 2(K) of the Building Tax Act. In the circumstances, challenge against the demand is not maintainable. This original petition is, accordingly, dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg